

Trump Administration Releases First Unified Agenda of Federal Regulatory and Deregulatory Actions

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On July 20, 2017, the Trump Administration released its first [Unified Agenda of Federal Regulatory and Deregulatory Actions](#) (hereinafter Unified Agenda). The Unified Agenda—which is usually published twice a year—is a government-wide publication of rulemaking actions agencies expect to take in the coming months and, as the name suggests, contains both regulatory actions (i.e., new regulations) and deregulatory actions (i.e., reductions in or elimination of current regulations). At present, the Unified Agenda does not contain a way to separate deregulatory actions from regulatory actions. [According to an interview](#) with the newly confirmed Office of Information and Regulatory Affairs (OIRA) Administrator, Neomi Rao, however, the next edition may have a different classification system, allowing agencies to indicate which items are regulatory and which are deregulatory.

Contents of the Unified Agenda

The Unified Agenda lists upcoming regulatory activities, by agency, in three separate categories:

- “active” actions, including rules in the *prerule* stage (e.g., advance notices of proposed rulemaking that are expected to be issued in the next 12 months); *proposed* rule stage (i.e., notices of proposed rulemaking that are expected to be issued in the next 12 months, or for which the closing date of the comment period is the next step); and *final* rule stage (i.e., final rules or other final actions that are expected to be issued in the next 12 months);
- “completed” actions (i.e., final rules or rules that have been withdrawn since the last edition of the Unified Agenda); and
- “long-term” actions (i.e., items under development that agencies do not expect to take action on in the next 12 months).

The Trump Administration [provided some summary information](#) on [Reginfo.gov](#) about its first Unified Agenda, as listed below. Interested parties can identify more detailed information on each rule in the Unified Agenda by [searching through various data elements](#), including (but not limited to) the issuing agency, whether the rule is considered “major” under the [Congressional Review Act](#), or whether the rule is expected to have significant effects on small businesses. The following bullet points were [taken directly](#) from [Reginfo.gov](#), where the summary information was provided:

- Agencies withdrew 469 actions proposed in the Fall 2016 Agenda;

- Agencies reconsidered 391 active actions by reclassifying them as long-term (282) and inactive (109), allowing for further careful review;
- Economically significant regulations fell to 58, or about 50% less than Fall 2016;
- For the first time, agencies will post and make public their list of “inactive” rules—providing notice to the public of regulations still being reviewed or considered.

“Inactive” rules appear to be those rules the Obama Administration had previously referred to as “pending” rules. According to a [2015 report for the Administrative Conference of the United States \(ACUS\)](#), the Obama Administration created an additional category of rules that was not available to the public and was used to list rules that were underway but were not being actively worked on by the agencies. As Office of Management and Budget (OMB) Director Mick Mulvaney [stated](#), however, the Trump Administration was changing the Obama Administration’s policy of nondisclosure of those rules, and would be instead making the lists of “old and cold” rules public.

Requirements for Publication of the Unified Agenda

The Unified Agenda helps agencies fulfill two transparency requirements: [Section 602 of the Regulatory Flexibility Act](#), which requires that all agencies publish semiannual regulatory agendas describing regulatory actions they are developing that may have a significant economic impact on a substantial number of small entities; and Section 4 of [Executive Order \(EO\) 12866](#) on “Regulatory Planning and Review,” which requires that all federal rulemaking agencies “prepare an agenda of all regulations under development or review.” (For more background on the Unified Agenda, see [CRS Report R40713](#), *The Unified Agenda: Implications for Rulemaking Transparency and Participation*.)

Role of the Unified Agenda in Rulemaking

There is no penalty for issuing a rule without a prior notice in the Unified Agenda, and some prospective regulatory actions listed in the Unified Agenda are never finalized. However, the Trump Administration appears to have placed additional importance on the role of the Unified Agenda in overseeing agency rulemaking. [EO 13771](#), which President Trump signed on January 30, 2017, and which is [primarily known](#) as the order that created a one-in, two-out regulatory requirement, contained the following provision pertaining to the Unified Agenda: “Unless otherwise required by law, no regulation shall be issued by an agency if it was not included on the most recent version or update of the published Unified Regulatory Agenda as required under Executive Order 12866, as amended, or any successor order, unless the issuance of such regulation was approved in advance in writing by the Director [of OMB].”

On April 5, 2017, OMB issued [guidance on implementation of EO 13771](#), which re-emphasized the importance of publishing regulatory and deregulatory actions in the Agenda. The guidance suggested that the Unified Agenda could be used to signal a broad range of actions that may be undertaken as a result of the Trump Administration’s overall deregulatory approach: “The agency’s Unified Agenda of Regulatory and Deregulatory Actions should reflect compliance with the requirements of EO 13771, and should include, to the extent practicable, EO 13771 deregulatory actions that, when combined with EO 13771 deregulatory actions that are not regulations (such as Paperwork Reduction Act information collection reforms), are sufficient to offset those actions appearing in the Agenda that are or are expected to result in EO 13771 regulatory actions.”

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